

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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IN RE PHARMACEUTICAL INDUSTRY )  
AVERAGE WHOLESale PRICE )  
LITIGATION )

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MDL NO. 1456  
Civil Action No. 01-12257-PBS

THIS DOCUMENT RELATES TO )  
ALL ACTIONS )

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Hon. Patti B. Saris

**THE PARTIES' JOINT MOTION FOR A CONTINUANCE OF THE J&J  
DEFENDANTS' POST-REMAND MOTIONS FOR SUMMARY JUDGMENT**

The J&J Defendants filed two motions for summary judgment which are scheduled to be argued on March 31, 2010. On March 26, Donald E. Haviland, Jr., purportedly on behalf of class plaintiffs' representatives, Larry Young and Ken Wright, as co-executor of the estate of Therese Shepley (the "class plaintiffs' representatives"), filed a Notice of Voluntary Dismissal pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, and, in addition, a Suggestion of Death on the Record pursuant to Rule 25(a) of the Federal Rules of Civil Procedure. Mr. Haviland has further advised the parties that he anticipates filing a motion pursuant to Rule 23(e) of the Federal Rules of Civil Procedures seeking court approval to voluntarily dismiss the class plaintiffs' representatives' claims.

In the light of the above-referenced filings and anticipated motion, the parties believe that the J&J Defendants' summary judgment motions should be continued until such time as the Court is able to determine and decide how, if at all, the J&J Defendants' summary judgment motions are affected by the filings and anticipated motion. The parties expect to make additional filings, either jointly or separately, setting forth their positions concerning the

appropriate method of proceeding. In the meantime, they are agreed that the pending summary judgment motions should be continued.

The parties jointly suggest that the Court may wish to schedule a status conference to address these developments at the Court's convenience.

Dated: March 29, 2010

/s/ Andrew D. Schau

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Dated: March 29, 2010

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**CERTIFICATE OF SERVICE**

I certify that on March 29, 2010 a true and correct copy of the foregoing was delivered via electronic service to all counsel of record pursuant to Case Management Order No. 2.

/s/ Andrew D. Schau

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Andrew D. Schau